

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #5	CCRB Case #: 201708585	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 10/15/2017 10:30 PM	Location of Incident: [REDACTED]	Precinct: 104	18 Mo. SOL 4/15/2019	EO SOL 4/15/2019	
Date/Time CV Reported Wed, 10/18/2017 11:03 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 10/18/2017 11:03 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Philippe Dupont	28532	934803	104 PCT
2. POM Roben Kikirov	01503	938767	104 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Philippe Dupont	Abuse: Police Officer Philippe Dupont detained § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Roben Kikirov	Abuse: Police Officer Roben Kikirov detained § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Philippe Dupont	Force: Police Officer Philippe Dupont used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Roben Kikirov	Force: Police Officer Roben Kikirov used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Philippe Dupont	Abuse: Police Officer Philippe Dupont threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]

### Case Summary

On October 18, 2017, § 87(2)(b) filed this complaint with the CCRB over the phone.

On October 15, 2017, § 87(2)(b) had a dispute with a neighbor, § 87(2)(b) and her § 87(2)(b)-old mother, § 87(2)(b) in the laundry room of her apartment building in which § 87(2)(b) claimed that § 87(2)(b) hit her with the washing machine door. § 87(2)(b) called 911. PO Philippe Dupont and PO Roben Kikirov of the 104<sup>th</sup> Precinct responded to the call and went to § 87(2)(b)'s apartment. § 87(2)(b) asked why the officers were there but they refused to answer and left. § 87(2)(b) followed the officers to the elevator, held the door open, and told the officers that she had a right to know why they were there. PO Dupont and PO Kikirov stepped out of the elevator and handcuffed § 87(2)(b) (**Allegation: A and B – Abuse of Authority, § 87(2)(g)**). After § 87(2)(b) was handcuffed, PO Dupont grabbed her by her left arm and shoved her into a wall, then dragged her along the wall and shoved her against a staircase (**Allegation: C – Force, § 87(2)(g)**). PO Dupont told § 87(2)(b) that if she made a complaint about the incident that he would return and arrest her for obstruction of justice and impeding an investigation (**Allegation: D – Abuse of Authority, § 87(2)(g)**). § 87(4-b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

There are no video recordings of this incident.

### Findings and Recommendations

**Allegation A - Abuse of Authority: Police Officer Philippe Dupont detained § 87(2)(b)**

**Allegation B - Abuse of Authority: Police Officer Roben Kikirov detained § 87(2)(b)**

It is undisputed that § 87(2)(b) and § 87(2)(b) did not make any allegations against § 87(2)(b) that rose above the level of a violation of harassment. It is further undisputed that § 87(2)(b) attempted to hold the elevator door while the officers attempted to leave.

§ 87(2)(b) stated that her neighbor falsely accused her of hitting her with a washing machine door and told her that she was going to call the police. § 87(2)(b) then went to the 104<sup>th</sup> Precinct stationhouse in an attempt to get ahead of the false accusation. The officers at the stationhouse told her that since they had not received a call yet, that they could not do anything. § 87(2)(b) then returned home and had one glass of wine.

§ 87(2)(b) testified that PO Dupont and PO Kikirov knocked on her door and she stepped out into the hallway to talk to them. § 87(2)(b) asked the officers whose behalf they were there on. The officers did not answer § 87(2)(b)'s question. § 87(2)(b) refused to answer any questions until the officers explained who they were there for. PO Dupont and PO Kikirov stepped into the elevator to leave; however, § 87(2)(b) grabbed the door knob to the elevator and stated, "Officer, I'm not done speaking with you." PO Dupont and PO Kikirov exited the elevator and approached § 87(2)(b). PO Kikirov stepped behind § 87(2)(b) and handcuffed her. § 87(2)(b) was later unhandcuffed and was not arrested. § 87(2)(b) urinated on herself during the incident, but attributed it to fear regarding the alleged use of force (See allegations C and D).

PO Dupont stated that after speaking with the complainants, he and PO Kikirov went upstairs to talk to § 87(2)(b) about what happened. PO Dupont asked § 87(2)(b) what her name was and § 87(2)(b) told PO Dupont she did “not have to tell [him] anything.” PO Dupont offered to help § 87(2)(b) mediate the problem with her neighbor. § 87(2)(b) refused PO Dupont’s help and was aggressive and belligerent. PO Dupont told § 87(2)(b) that this completed his portion of the investigation with her, and that he was going to go downstairs. PO Dupont and PO Kikirov turned around and walked onto the elevator. The officers were attempting to go back to the first floor to speak with the complainant and to finish filling out the UF61. PO Dupont did not smell any alcohol on § 87(2)(b) at this point as he was standing far back enough where he would not be able to smell it.

As PO Dupont was attempting to close the elevator door, § 87(2)(b) wedged her hands in the elevator. PO Dupont told § 87(2)(b) to step back, because he knew from the interaction at her front door that she did not intend to speak with him, and that her motive was to stop him. § 87(2)(b) did not listen to the command to step back and she attempted to get into the officers’ faces and tried to physically hold the elevator so that none of the buttons would work and the door would not close or engage. § 87(2)(b) said, “Oh, you can’t leave, I’m not going to let you leave,” but did not tell him why. PO Dupont did not remember how long § 87(2)(b) was holding the elevator door but said he instructed her multiple times with verbal commands and warnings.

PO Dupont stepped out of the elevator, grabbed § 87(2)(b)’s hands, and said to her, “Step to the side with me, because this is dangerous, and this is ridiculous. You can’t do this.” PO Dupont took a step with § 87(2)(b). As PO Dupont took a step with § 87(2)(b) he smelled an odor of alcohol and lost his footing on a wet substance on the floor, which he later learned was § 87(2)(b)’s urine.

After PO Dupont slipped, he pushed § 87(2)(b) to the side and she started screaming. § 87(2)(b) was yelling curse words in PO Dupont’s face, but was not making any specific statements. PO Kikirov then placed § 87(2)(b) into handcuffs. The officers made the decision that she needed to be handcuffed for safety reasons as she stopped them from leaving via the elevator, she was screaming, she created a hostile environment, and she tried to prevent the elevator doors from closing, all of which was incoherent behavior and could have been a danger to someone else. After removing § 87(2)(b) from the elevator, the officers did not attempt to go back downstairs.

§ 87(2)(b) was not under arrest at this point. After PO Dupont saw that she urinated on herself and he smelled the alcohol he thought that § 87(2)(b) was heavily intoxicated and potentially needed medical attention. PO Dupont was also considering arresting her for obstruction of governmental administration for blocking them from leaving and impeding their investigation. He was unsure if he was going to arrest her for OGA because he was unsure if she had a culpable mental state. PO Dupont realized that the alcohol explained § 87(2)(b)’s behavior and realized that although § 87(2)(b) had been drinking, that she was not intoxicated to the point where she needed hospitalization, and made the decision to release her. PO Dupont did not call an ambulance or supervision at any point during the interaction.

PO Kikirov's statement was consistent with PO Dupont's.

§ 87(2)(b)'s boyfriend, § 87(2)(b) testified that when he arrived, § 87(2)(b) was already in handcuffs. He testified that an officer told him that § 87(2)(b) was giving the police a hard time and had held the elevator door open.

§ 87(2)(g), § 87(2)(b)

**Allegation C - Force: Police Officer Philippe Dupont used physical force against § 87(2)(b)**

**Allegation D - Force: Police Officer Roben Kikirov used physical force against § 87(2)(b)**

§ 87(2)(b) stated that she was compliant in being handcuffed and did not move her arms or her body. After § 87(2)(b) was handcuffed, PO Dupont grabbed her by her left arm, and threw her to the left into the wall on the side of § 87(2)(b)'s apartment door. § 87(2)(b) landed approximately 12 feet away from where she was. § 87(2)(b) urinated on herself due to being frightened. PO Dupont then grabbed § 87(2)(b) dragged her back to the right, and threw her into the small staircase to the left of § 87(2)(b)'s door. § 87(2)(b) hit the stairs and was laying on them faced down. § 87(2)(b) sustained bruising and cuts on her left arm and left leg from being thrown around. While this was happening, § 87(2)(b)'s neighbor, § 87(2)(b) § 87(2)(b) § 87(2)(b) who lived in the door directly across from hers, opened his door and asked if everything was okay.

§ 87(2)(b) provided photos of her bruises to the CCRB. The photos were reportedly taken on October 18, 2018 by § 87(2)(b) **(Board Review 01)**.

§ 87(2)(b)'s medical records from § 87(2)(b) Hospital show that § 87(2)(b) went to the hospital on § 87(2)(b) and complained that she was assaulted by police officers on October 15, 2018. § 87(2)(b) complained that she had pain in her left arm and wrist as a result of blunt trauma from the officers. Medical records indicate that § 87(2)(b) had bruising on her left upper arm. X-rays were conducted which were negative. She was diagnosed with pain in her left arm and wrist, prescribed Lisinopril, and was discharged § 87(2)(b). **(Board Review 02)**

§ 87(2)(b)'s medical records from her primary care physician show that on § 87(2)(b) § 87(2)(b) went to the office and complained that she was suffering from anxiety after being assaulted by police officers. § 87(2)(b) noted in the file that § 87(2)(b) has a bruise on her upper left arm that was 3 inches in height and 6 inches circling around her arm, and that she had a bruise on her left thigh that measured 4 inches in height by 4 inches in width. § 87(2)(b) was prescribed Xanax and Ambian. **(Board Review 02)**.

§ 87(2)(b) § 87(2)(b) § 87(2)(b) stated that he heard screaming from the hallway and opened his door and saw an officer with his arms around § 87(2)(b)'s waist. § 87(2)(b) was standing. § 87(2)(b)

could not tell what the officer was doing. § 87(2)(b) did not know if § 87(2)(b) was handcuffed. § 87(2)(b) quickly closed the door and went back inside as he did not want the officer to yell at him. He only observed the physical contact for approximately two seconds. § 87(2)(b) did not hear any banging or rustling going on in the hall.

Both PO Dupont and PO Kikirov denied using any physical force on § 87(2)(b) besides grabbing her hands and pulling them behind her back to be handcuffed. Neither PO Dupont nor PO Kikirov threw § 87(2)(b) into a wall or the stairs. Neither officer saw any cuts or bruising on § 87(2)(b)

§ 87(2)(g), § 87(2)(b)

**Allegation E - Abuse of Authority: Police Officer Philippe Dupont threatened to arrest**

§ 87(2)(b)

§ 87(2)(b) alleged that after she was un-handcuffed, that PO Dupont said to § 87(2)(b) “You better straighten her out. If she makes a complaint about this I’ll come back and arrest her for obstruction of justice and impeding an investigation.”

§ 87(2)(b) stated that PO Dupont told § 87(2)(b) that if he heard anything about the incident that there was going to be a problem. PO Dupont did not specify what the problem was going to be. PO Dupont said that he could lock § 87(2)(b) up for three years and mentioned something about assaulting an officer and impeding an investigation; however, § 87(2)(b) did not recall specifically what this was about.

PO Dupont testified that he did not state to § 87(2)(b) “You better straighten her out. If she makes a complaint about this I’ll come back and arrest her for obstruction of justice and impeding an investigation.” PO Dupont denied threatening to arrest § 87(2)(b)

PO Kikirov stated that PO Dupont did not threaten to arrest § 87(2)(b)

§ 87(2)(g), § 87(2)(b)

§ 87(4-b), § 87(2)(g)

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) has been a party. **(Board Review 05)**
- PO Dupont has been a police officer with the NYPD for 13 years and has had one allegation made against him. In case 201105106, an allegation of discourtesy-word was closed as alleged victim uncooperative. § 87(2)(g)
- PO Kikirov has been a police officer with the NYPD for 12 years and has had one additional CCRB complaint filed against him with four allegations made against him, all of which are still open (201801302). § 87(2)(g)

### Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to alleged injuries.
- As of May 21, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint **(Board Review 06)**.
- According to the Office of the Court Administration, § 87(2)(b) has no history of criminal convictions in the State of New York. **(Board Review 07)**

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Squad No.: 05

Investigator: \_\_\_\_\_

Signature	Print Title & Name	Date
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Squad Leader: \_\_\_\_\_

Signature	Print Title & Name	Date
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